

Heart Disease Under Workmen's Compensation

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CURRENT CARDIOLOGY stresses the opinion that most persons with heart disease not only can but should work. Some heart disorders are transient, and in nearly all the patient is benefited by useful and remunerative employment. Industry would benefit from the skills of many persons who have heart disease, and society's burden in supporting them would be lightened.

Nevertheless, there is considerable resistance to their employment, often due to their own fear of effort but more often to the fear of employers that workmen's compensation insurance costs will be increased on the hiring of persons with known heart disease.

Coronary occlusion is the heart lesion most encountered in workmen's compensation cases, but employers make little distinction among heart diseases; all are feared equally without regard to their relative permanence.

TEST OF COMPENSABILITY IN CALIFORNIA

Any disease, disability or death which arises out of and occurs in the course of the employment in California is compensable.¹ While the extent of liability varies, it does not matter basically whether industrial strain induced heart damage or merely aggravated it.² The test of liability is the effect of the injury on the particular employee, not what it would have been on a healthy person.³ If it merely aggravated an active, progressive and symptomatic condition, the employer is liable only for the effects of the aggravation.⁴ If it is found that the injury hastened or produced death, the employer is wholly liable,⁵ although the employee would have ultimately died of the disease.⁶ If there were no symptoms prior to injury, and a disability is produced which did not previously exist, the condition is entirely compensable.⁷

It is self-evident—but worth stating—that disability due solely to the normal progression of a disease in an employed person is not an injury and is not compensable.⁸ However, the Labor Code does

• In expert testimony before the Industrial Accident Commission, all physicians are taken as equally competent. The value of their testimony depends upon the validity of their data and the reasons for the conclusions drawn. In case of conflicting opinion, the referees, who are laymen, must decide on the basis of the testimony. Therefore physicians preparing reports must see that data are complete, that all routine investigative procedures are not only applied but reported, and that the reasons for claiming connection of injury with employment are fully stated. Moreover, other recognized causes of the patient's condition should be considered and ruled out for reasons given.

The increasing number of claims for workmen's compensation in heart disease, and the increasing tendency of insurers to settle rather than contest claims, may actually be harmful to the welfare of persons with heart disease, for it deters employers from hiring them and thus risking higher insurance costs. Physicians concerned with compensation claims must develop more widely acceptable standards that properly separate the inherent risk of heart disease from that incurred through employment for which the employer may reasonably be considered liable.

not limit the meaning of "accident" to the conventional sense of that which is sudden, usually violent and often external. Likewise the Federal Longshoremen's Act, which applies to some California employees, regards as accidental injury any unexpected derangement of bodily functions.⁹ The early and better reasoned decisions on heart injury recognized that to be distinguished from the natural progress of the disease the disorder must be precipitated by unusual stress or overstrain.¹⁰

The wording in at least two California decisions indicates that work strain plus episode of heart disease equal liability, and that the exertion or strain need not be unusual nor other than normal to the work.¹¹ However, neither case has eliminated the question of causal connection, which is one of fact.¹² Until the Legislature by statute compels a more consistent policy in the Industrial Accident Commission, the courts must affirm the award whenever there is competent substantial evidence of causal connection between work strain and heart injury.¹³ Because the decision must be based on the facts in each case, a wide variety of causes for compensability have been found, some of them seemingly original in those cases!¹⁴

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IMPORTANCE OF MEDICAL TESTIMONY

While the law refers questions of pathology to "medical experts," whose opinion alone is competent to establish the cause of heart disorders,¹⁵ no distinction is made among "medical experts." The general physician is legally as competent as the specialist, and conflicts of opinion among experts must be decided by the triers of fact¹⁶—laymen with no more than a superficial familiarity with medical problems. Moreover, since physicians' written reports may be submitted in lieu of oral testimony,¹⁷ and this is usually done, referees of the Industrial Accident Commission rarely see the experts. The written report must speak for itself, and if it is incomplete in its factual content the conclusions drawn may be underrated or overrated. The rehabilitation of workers with heart injury will be furthered if physicians render reports that are complete both as scientific and as legal evidence.

THE ADEQUATE REPORT

The physician's duty in cases of heart injury before the Industrial Accident Commission is to present a discursive analysis for differential diagnosis and identification of causes. He must consider:

1. Condition of the heart prior to the alleged injury;
2. Severity of the injury and the parts of the body involved;
3. The type of injury—crushing, penetrating, strain;
4. Symptoms present at the time of injury and shortly thereafter and the time of their appearance;
5. What abnormal findings preceded injury;
6. Whether any lesion existed before injury and, if so, whether it was aggravated;
7. If strain is charged, what precisely was being done at the time;
8. Whether the activity was normal or unusual for the patient;
9. What effect it had on the patient;
10. What extracardiac complications are present and what effect they have on the patient;¹⁸
11. In case of death, the correspondence between necropsy findings and clinical history, especially with regard to time elapsing between the alleged injury and death.

The alleged injurious event must be completely narrated with all pertinent circumstances and with the time of onset of symptoms. Then all relevant clinical findings should be given, and also relevant personal and familial history. Then the patient's present complaints should be listed. In fairness to himself and to the patient, the physician should state what

conventional diagnostic aids have been used, the dates when they were used and the findings. The diagnosis is the first basic conclusion in the report.

The preceding steps are, of course, routine in any thorough medical examination, although the reporting may be more detailed than is needed for purely clinical purposes. Then follows the relating of the findings to the alleged cause or to some other cause that may have been discovered in the examination. In other words, has the patient an industrial injury or solely a coincident illness?

To offset conflicting opinions, the physician should consider and rule out the other recognized causes of the diagnosed condition, giving his reasons for rejecting the other possibilities as well as for his own decision. The weight or value of any opinion depends upon the validity of the reasons assigned for it¹⁹ and the facts from which it is drawn.²⁰ The author is convinced that such an orderly consideration of the possible causes for the condition, and the considered rejection of those not applicable, would result in a higher average of scientific value in the reports. More important, such a presentation assists the laymen who must decide the case. When a number of examiners have come to a number of different conclusions, each by his own approach without discussion of the other possibilities, the laymen face these fractional presentations without a common denominator.

Two notes might be added to this discussion: If it is accepted that a diseased heart can become "compensated to effort," employment need not be considered contributory to a death from chronic heart disease which has reached such a stage that death may ensue at any time, from any exertion,²²—provided the employee was working within the range of effort compensation even though the normal work is heavy.²³

If the physician is swayed by human sympathy for the claimants, let him remember that for every excessive or unjustified award of compensation which increases the financial risk of employers, literally hundreds if not thousands of persons with heart impairment are denied the chance to work.

IMPORTANCE OF HEART DISEASE CLAIMS

Diseases of the heart are today the most frequent cause of death.²⁴ Most acute episodes have their onset away from work, often while the patient is asleep.²⁵ Nevertheless, the causal connection between work and heart disorder has been claimed with increasing frequency if not increasing clarity. Beard and coworkers,²⁶ analyzing claims before the Industrial Accident Commission from 1948 to 1951, found there are no widely accepted hypotheses of causal connection in this matter among cardiolo-

gists* and that, being human, they are not always consistent when unknowingly reviewing the same case data. The result: The number of cardiovascular deaths with some industrial connection rose to an all-time high in 1958, although the Commission made fewer findings and awards in this connection than in any of the previous six years.²⁷ The difference was due to compromises and releases settled by insurers, and reflects their fear of the hazards of litigating such claims.

It is an unfortunate fact that as soon as litigation enters the picture, scientific procedures and attitudes become diluted by partisan enthusiasm, with the result that opinions are produced more for their economic value than for scientific worth. Until the medical profession has clearer and more universally recognized concepts of cause and effect, it will remain difficult to rehabilitate industrially the cardiac patient, because employers fear increase of compensation costs.

The author's conclusions are not unique. In an address prepared for a meeting of the Washington State Heart Association, Wilbur stated:

"It is probably true that, viewed from the physician's standpoint, courts have reached inconsistent conclusions on similar or even identical factual patterns. But a careful case by case review of . . . decisions will reveal that any seeming inconsistencies have resulted not so much from inconsistent application of rules of law as from variant medical opinions expressed in various cases. To one who understands the judicial process, inconsistent results may be expected where ostensibly qualified medical experts express contrary opinions regarding factual situations . . ."²⁸

The respective functions performed by the legal and medical professions in manning the courts and furnishing technical expert testimony brings these groups into increasing contact. Although this may be regarded as a marriage of convenience rather than a case of "love at first sight," after all, there is the power of choice on the part of the medical expert. He does not have to enter the field of literary or forensic medicine. It is difficult not to criticize those who voluntarily enter the field and contribute so generously to its confusion.

There is a real need to recognize that every person with heart disease must engage in some activity. If that is commensurate with his general health and within the range of activity to which his heart has become compensated, death should properly be assigned to natural causes unless the effect of the accused event was so substantial that any fair mind would find it responsible. So, too, should recognition be given to the time elapsing between the accused event and the acute disease episode. Certainly a

lapse of days should be questioned,²⁹ and an interval of a few hours considered more characteristic.³⁰ Lastly, the relative seriousness of the preexisting heart disease and of the severity of the accused event must be weighed.³¹

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